

## REMARKS/ARGUMENTS

In this response, Claims 47-69 have been amended; no claims have been added or canceled. Hence, Claims 1-23 and 47-69 are pending in the application. No new matter has been added. Each issue raised in the Office Action mailed on May 1, 2009 is addressed below.

Applicants note with appreciation the indication that Claim 10 contains allowable subject matter.

### I. ISSUES NOT RELATING TO PRIOR ART

#### CLAIMS 47-69 --- 35 U.S.C. § 101

The Office Action at page 2 rejects Claims 47-69 as allegedly non-statutory under 35 U.S.C. § 101. In particular, the Office Action states “Applicant’s specification paragraphs 96-97 disclose **computer readable mediums** as non-statutory carrier waves.” (Emphasis added). In response, each of current Claims 47-69 recites a “**machine-readable storage**” and thus excludes carrier waves, as carrier waves cannot store machine-readable instructions. Applicants respectfully request reconsideration and withdrawal of the rejection.

### II. ISSUES RELATING TO PRIOR ART

#### A. CLAIMS 1-9, 11-23, 47-55, AND 57-69 --- 35 U.S.C. § 103(a)

Claims 1-9, 11-23, 47-55 and 57-69 were rejected under 35 U.S.C. 103(a) as allegedly unpatentable over U.S. Pat. Pub. 2002/0062258 (“Bailey”) in view of U.S. Patent 7,082,426 (“Musgrove”), and further in view of U.S. Pat. Pub. 2001/0044758 (“Talib”). This rejection is respectfully traversed.

Claim 1 recites the following (emphasis added):

A method for associating data with product abstractions comprising the steps of:  
maintaining a repository of previously-generated product abstractions;  
maintaining data that identifies a plurality of pre-established product categories;  
inspecting a first data set that includes data that corresponds to an offer to sell a particular product by a particular party, wherein the first data set is not currently matched to any product abstraction and the particular product is not currently assigned to any product category;  
based on the first data set, determining whether the particular product matches any of said pre-established product categories;  
**in response to determining that the particular product does not match any of said pre-established product categories, determining whether to create a new product category based, at least in part, on whether similar uncategorized products have been previously encountered;**  
responsive to determining that a new product category should be created, (a) creating the new product category, (b) storing data that indicates that said particular product belongs to said new product category, and (c) establishing the new product category as one of said pre-established product categories;  
matching said first data set with a product abstraction from said repository of previously-generated product abstractions based, at least in part, on the pre-established product category to which said particular product corresponds;  
wherein the product abstraction is an electronic representation of a product and wherein the method is performed by a computer programmed to be a special purpose machine pursuant to instructions from program software.

In particular, Claim 1 recites the feature of “based, at least in part, on whether similar uncategorized products have been previously encountered.” Claim 47 is the corresponding machine-readable storage claim.

The Office action at page 5 appears to map this feature to Talib, stating “abstract and paragraph 202 disclosing adding new categories to current hierarchical category taxonomies if a suitable one does not exist.” However, no portion of Talib discloses or suggests Applicants’ claimed feature.

Talib at paragraph [0202] discloses a scheme in which a category is automatically matched to a document and presented for review to a system operator. If the system operator

agrees with the proposed category, then the system operator creates the corresponding association. If, however,

. . . the system operator does not agree with suggested category and cannot find another suitable category by searching through the list of categories, he/she clicks on button 1525 to instruct the system to create a new category into the hierarchy.

The scheme of Talib fundamentally differs from Applicants' claimed method in at least two ways. First, in the scheme of Talib, a system operator is used to create new categories; in contrast, Applicants' claimed method, including "determining whether to create a new category," is performed by a computer.

Second, in the scheme of Talib, the determination to create a new category is based merely on the whim of the system operator; in contrast, under Applicants' claimed method the determination is made "based, at least in part, on whether similar uncategorized products have been previously encountered." Nothing in Talib even remotely suggests a system that retains information regarding uncategorized products, much less using that information to automate the decision of whether to create a new category. As none of the remaining references remedy these deficiencies, no combination of the references discloses or suggests all features appearing in Applicants' Claims 1 and 47. Applicants respectfully request reconsideration and allowance of Claims 1 and 47.

### III. CONCLUSION

The pending claims not discussed so far are dependent claims that depend on an independent claim that is discussed above. Because each of the dependent claims includes the limitations of claims upon which they depend, the dependent claims are patentable for at least

those reasons the claims upon which the dependent claims depend are patentable. Removal of the rejections with respect to the dependent claims and allowance of the dependent claims is respectfully requested. In addition, the dependent claims introduce additional limitations that independently render them patentable.

For the reasons set forth above, Applicants respectfully submit that all pending claims are patentable over the art of record, including the art cited but not applied. Accordingly, allowance of all claims is hereby respectfully solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

A petition for extension of time, to the extent necessary to make this reply timely filed, is hereby made. If applicable, a law firm check for the petition for extension of time fee is enclosed herewith. If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to charge any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,

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